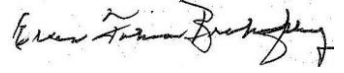


Responding to Subpoenas Policy

Approved: 

Date: April 2014

I. Policy

Information contained within presentence or predisposition investigations and/or information contained within a probation officer's supervision file, relative to a probationer's performance on probation, shall be treated as confidential and protected from public disclosure through subpoena, unless the requested information is considered public information or pertains to a juvenile transfer request, disposition/sentencing or a probation revocation proceeding.

II. Purpose

To ensure probationer confidentiality and provide appropriate procedures for officers in relation to subpoenas.

III. Reference

[Neb. Rev. Stat. § 29-2261 \(6\).](#)

IV. Procedure

A. Response to a subpoena to testify or produce information

1. Probation officers may be served with a subpoena to testify and/or produce information derived from either a presentence or predisposition investigation or a probationer's supervision file outside the normal confines of a sentencing or probation-revocation proceedings.
2. This information is requested to establish the probationer's character and most generally transpires out of some civil action.
3. In the event a probation officer is served with a subpoena to produce this information relating to a probationer's character and/or overall performance on probation, the officer shall immediately contact the Chief Probation Officer and/or a supervisor within his/her specific district and adhere to the following procedures.

B. Immediately after receiving a subpoena

1. The officer shall make an inquiry to the subpoenaing party regarding the reason(s) the officer's testimony has been requested.
2. If information gathered is beyond that pertaining to a juvenile transfer request, a disposition/sentencing or a probation revocation:
 - a) The officer shall complete the Probation Officer's Subpoena Checklist that explains, in part, the information requested.

- b) Copies of the completed Probation Officer's Subpoena Checklist and the subpoena shall be either faxed or scanned and emailed to the Administrative Office of Probation.
 - c) A representative of the Administrative Office of Probation shall review the nature of the subpoena and then forward it to the Attorney General's office, with a telephone call also placed on that date to verify receipt and to obtain further instruction.
 - d) The officer shall receive a fax from the Administrative Office of Probation verifying the information has been forwarded to the Attorney General's office.
3. Upon receipt of the subpoena information, a representative of the Attorney General's office shall contact the appropriate county attorney to request a Motion to Quash be filed or the county attorney contact the court and/or the other attorney(ies) involved to request the matter be handled without the officer's file or testimony.
4. In the event the Attorney General's office is unable to get the subpoena quashed, an attorney representing the Attorney General's office shall assist the Administrative Office of Probation and represent the officer at any/all subsequent hearing(s).